

5. The SPD is also in possession of other records relating to Madelyn's arrest and detention. Madelyn's family is urgently seeking such records to better understand the events leading to her hospitalization and death.

6. Madelyn's family submitted a request for records to the SPD on October 15, 2018. The SPD and City of Springfield (the "City") have unlawfully failed to respond to that request and have unlawfully failed to produce any responsive records, such as any audiovisual recordings of Madelyn's booking process.

7. Release of the requested records would also serve the public interest. It is in the public interest that families learn the circumstances leading to the death of a loved one. It is in the public interest that police be accountable for their treatment of sick or injured prisoners.

8. Additionally, release of the requested records would serve the public interest by supporting Madelyn's family in their public advocacy for the humane treatment of opioid users and for increased access to medications and medical care for people suffering from opioid use disorder. Shortly after Madelyn passed away, her sister Kate O'Neill drafted an obituary. The obituary candidly described Madelyn's struggle with opioid addiction. It also advocated against "a system that seems to have hardened itself against" people struggling with addiction. The obituary was shared extensively on social media, including by public figures like Senators Jeanne Shaheen and Maggie Hassan, FDA Commissioner Dr. Scott Gottlieb, New York Times columnist David Brooks, actress and advocate Alyssa Milano, and presidential advisor Ivanka Trump. This unexpected attention resulted in Madelyn's family being invited to tell Madelyn's story and continue their advocacy in national and international media, as well as at public events attended by law enforcement leadership. The information requested from the SPD is expected to support and be a part of this ongoing advocacy.

PARTIES

9. Plaintiff Maureen Linsenmeir is Madelyn Linsenmeir's mother. She resides in Vermont.

10. Plaintiff Maura O'Neill is one of Madelyn Linsenmeir's sisters. She also resides in Vermont. She is the guardian of Madelyn Linsenmeir's minor child.

11. Defendant City of Springfield (the "City") is a Massachusetts municipality.

12. Defendant Springfield Police Department (the "SPD") is a component of the City. The SPD is reportedly under federal investigation to determine whether it has engaged in a pattern or practice of civil rights violations.¹ Two SPD officers were recently indicted on federal charges arising from alleged mistreatment of prisoners that was captured on video.²

JURISDICTION AND VENUE

13. Jurisdiction and venue are proper pursuant to G. L. c. 66, § 10A(c), c. 212, § 4, and c. 231A, § 1.

ALLEGATIONS

Madelyn's Illness, Arrest, and Death

14. Madelyn Linsenmeir was born in Burlington, Vermont. Her family remembers her as a "born performer," who "had a singing voice so beautiful it would stop people on the street." She was "hilarious, and warm, and fearless, and resilient." She is particularly remembered as a loving mother to her young son.

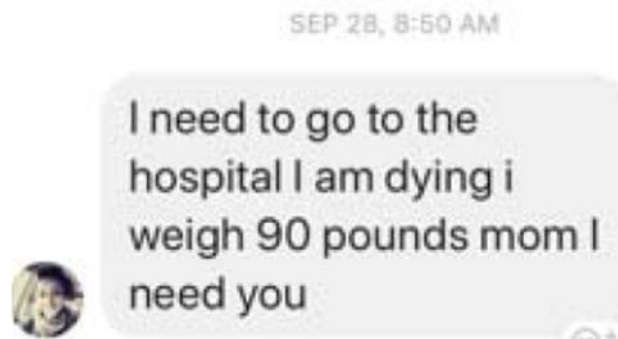
15. Tragically, Madelyn was also a victim of the opioid crisis, having become addicted after using prescription opioids recreationally in high school. Madelyn repeatedly sought treatment, and repeatedly relapsed into addiction.

¹ https://www.masslive.com/news/index.ssf/2018/04/us_department_of_justice_to_in.html

² https://www.masslive.com/news/index.ssf/2018/10/springfield_police_officers_in_2.html

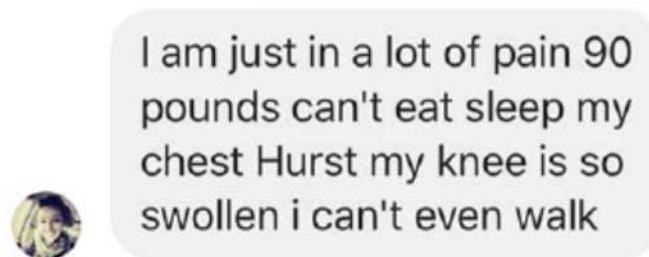
16. In August 2018, Madelyn left a treatment facility in Vermont and ultimately made her way to Massachusetts. On information and belief, her departure triggered the issuance of a probation-related arrest warrant by the courts of New Hampshire.

17. On September 28, 2018, Madelyn sent her mother a text message stating *“I need to go to the hospital I am dying I weigh 90 pounds mom I need you.”* See Ex. A.



18. Later that same day, Madelyn sent her sister Kate a series of text messages stating, among other things:

- *“I am really sick”*
- *“I just need to get help go to the hospital”*
- *“I am just in a lot of pain 90 pounds can’t eat sleep my chest Hurst my knee is so swollen i can’t even walk”*



Madelyn also stated, however, that she was scared to seek help at a hospital because she believed *“the hospital checks for warrants,”* and she *“[didn’t] want to go to jail [like] this.”* See Ex. B.

19. The SPD arrested Madelyn the next day, September 29, 2018.

20. On information and belief, people arrested by the SPD are generally allowed to make a telephone call during the booking process. Further, on information and belief, the SPD routinely makes audio and/or video recordings of the booking process for arrestees, including the arrestee's telephone call.

21. Shortly after her arrest, Madelyn was permitted to call her mother, Maureen. A police officer also participated in the call. Madelyn was distraught. She told her mother, among other things, that she was not receiving medical attention. As the conversation progressed, the police officer refused to provide medical attention and even made a sarcastic comment to Maureen after Maureen expressed concern that Madelyn was being denied care.

22. Madelyn was subsequently transferred to the custody of the Hampden County Sheriff's department.

23. On or about October 4, 2018, Madelyn was rushed by ambulance to the Baystate Medical Center, where she was admitted to the Intensive Care Unit. By October 5, 2018, she had been intubated and sedated. On October 7, 2018, she died.

24. On October 10, 2018, undersigned counsel sent a letter to Springfield Police Commissioner John Barbieri, on behalf of the plaintiffs. Among other things, the letter requested that the SPD preserve "all documents, correspondence, and other evidence relating to Madelyn Linsenmeir's arrest, detention, and death," including without limitation:

- "[a]ll records of any telephone calls made by Madelyn Linsenmeir;"
- "any recordings of those calls;" and
- "[a]ll photographs, audio recordings, and video recordings of Madelyn Linsenmeir."

See Ex. C (exhibit to letter omitted). The SPD did not respond to this letter.

The Request

25. On October 15, 2018, undersigned counsel submitted a request for public records pursuant to G.L. c. 66, § 10, to the SPD on behalf of the plaintiffs (the “Request”). The Request was submitted electronically through the City’s online public records portal. *See* Ex. D.

26. Among other things, the Request sought production of:

- “All documents relating to Madelyn Linsenmeir’s arrest, booking, and detention;”
- “All audio and video recordings relating to Madelyn Linsenmeir’s arrest, booking, and detention;”
- “All records of telephone calls made or received by Madelyn Linsenmeir on or after September 29, 2018;” and
- “All audio and video recordings of telephone calls made or received by Madelyn Linsenmeir on or after September 29, 2018.”

27. The Request also sought a waiver of any fees and copying costs, given that it was made by a non-profit organization on behalf of the family members of a deceased prisoner.

28. Pursuant to c. 66, § 10, as amended effective January 1, 2017, the SPD and City were required, within 10 business days, *i.e.*, by October 29th, to either produce the requested records pursuant to § 10(a), or provide a written response pursuant to § 10(b). A written response pursuant to § 10(b) “shall” include nine enumerated categories of information, including identifying:

- “any public records, categories of records, or portions of records that the agency or municipality intends to produce, and . . . a detailed statement describing why the magnitude or difficulty of the request unduly burdens the other responsibilities of the . . . municipality and therefore requires additional time to produce the public records sought;” and
- “any records, categories of records or portions of records that the . . . municipality intends to withhold, and . . . the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based.”

See G.L. c. 66, § 10(b)(iv)-(v).

29. Later on October 15th, the City sent an apparently automated letter acknowledging receipt of the Request and confirming that “[p]ursuant to M.G.L. ch. 66, § 10(b) the City has ten [10] business days to respond to your request.” *See* Ex. E.

30. Plaintiffs and their counsel received no further communications from the City or the SPD until 5:24 p.m. on October 29th, the tenth business day. At that time, the City emailed a letter that did not contain the information required by law. Instead, the letter stated only that “[t]he City is requesting an additional ten [10] business days to respond to your request.” The letter did not explain why such an extension is required, or what steps had been taken to preserve and collect responsive records, or what obstacles had been encountered to such collection, or what, if any, records the City intended to produce. Nor did the letter suggest any legal basis for the City’s apparent decision to postpone its obligations under the law without any prior agreement by the requestors. *See* Ex. F.

31. On October 31, 2018, undersigned counsel responded to the City by letter on behalf of the plaintiffs. The letter explained that, in the circumstances, plaintiffs “do not agree to any any extension of time,” and that “if a response has not been received by Tuesday, November 13, 2018, . . . [plaintiffs] will consider any and all steps necessary to secure compliance with the law.” The letter also noted that, pursuant to c. 66, § 10(e), “a fee may not be charged now because [plaintiffs] did not receive a response under c. 66, § 10(b) within ten business days of the Request.” *See* Ex. G (exhibits to letter omitted).

32. Undersigned counsel have not received any further correspondence from the City or SPD concerning the Request, nor any of the requested records. Twenty seven (27) business days

have now elapsed since the Request was submitted. The City's online public records portal simply lists the Request as "In Progress," with "Status: Time Extension."

Release of the Requested Information Is in the Public Interest

33. Release of the requested information is in the public interest. It is important that families learn the circumstances leading to the death of a loved one in custody. It is also important that police be accountable for the welfare of prisoners, including any failure to treat a prisoner's sickness or injury.

34. Additionally, release would serve the public interest because Madelyn's family is unexpectedly in a position to engage in national and international advocacy on behalf of victims of the opioid crisis. They plan to use the requested records in support of that advocacy.

35. Madelyn's death first attracted public attention after her family published her obituary on October 14, 2018. The obituary, drafted by her sister Kate O'Neill, candidly describes Madelyn's struggle with opioid use. It also criticized the dehumanizing treatment that people with opioid use disorder often face within institutions:

To some, Maddie was just a junkie – when theys saw her addiction, they stopped seeing *her*. And what a loss for them. Because Maddie was hilarious, and warm, and fearless, and resilient.

If you work in one of the many institutions through which addicts often pass – rehabs, hospitals, jails, courts – and treat them with the compassion and respect they deserve, thank you. If instead you see a junke or a thief or liar in front of you rather than a human being in need of help, consider a new profession.

See Ex. H.

36. The obituary was posted on the website of Seven Days, an independent publication in Vermont. However, it quickly went viral on social media and was shared many thousands of

times, including by public officials and other national figures. For example, the obituary was shared on Twitter by:

- U.S. Senator Jeanne Shaheen, who wrote that it was “heartbreaking, powerful, and a beautiful tribute” and “has so much important advice for all of us.”³
- U.S. Senator Maggie Hassan, who thanked Madelyn’s family for their “extraordinary courage and wisdom.”⁴
- FDA Commissioner Dr. Scott Gottlieb, who noted that the obituary “captures the pain, personal devastation, and lost promise dispensed by the opioid crisis.”⁵
- New York Times columnist David Brooks, who concluded that the obituary communicated “[w]hat opioid addiction looks like.”⁶
- Actress and political activist Alyssa Milano.⁷
- Presidential advisor Ivanka Trump, who called the obituary “[a] generous act amid [the family’s] pain & a wake up call to all as we battle, together as a nation, opioid addiction, a crisis of epic proportions.”⁸

37. As a result of this widespread attention on social media, Madelyn’s family has been invited to continue their advocacy in national and international media, as well as speaking events. For example:

- Kate O’Neill has been interviewed by People Magazine,⁹ the Guardian,¹⁰ public radio’s All Things Considered,¹¹ ABC News,¹² and the BBC,¹³ among others.
- Kate and her sister Maura O’Neill were jointly interviewed by WCAX Channel 3 News in Vermont.¹⁴

³ <https://twitter.com/SenatorShaheen/status/1052219320414146560>

⁴ <https://twitter.com/SenatorHassan/status/1052299666690363392>

⁵ <https://twitter.com/SGottliebFDA/status/1052123747870810112>

⁶ <https://twitter.com/nytdavidbrooks/status/1052157528136658945>

⁷ https://twitter.com/Alyssa_Milano/status/1052353599190253568

⁸ <https://twitter.com/IvankaTrump/status/1052550476678529024>

⁹ <https://people.com/human-interest/kate-oneill-sister-maddie-obituary-speaks-out/>

¹⁰ <https://www.theguardian.com/us-news/2018/oct/19/madelyn-ellen-linsenmeir-obituary-opioid-addiction-response-family>

¹¹ <http://www.wbur.org/commonhealth/2018/10/19/sister-who-wrote-viral-opioids-obit-burlington-police-chief-shame-and-stigma-are-barriers-to-help-for-addicts>

¹² <https://abcnews.go.com/Health/obituary-opioid-addict-viral-disease-face/story?id=58557409>

¹³ <https://www.bbc.com/news/world-us-canada-45984843>

¹⁴ <https://www.wcax.com/content/news/Grieving-family-of-overdose-victim-discuss-viral-obit-497961991.html>

- Maura recently delivered an address to the annual gala of the Turning Point Center, an addiction recovery facility in Vermont, in which she advocated for improved treatment for opioid users. The audience included the Governor and Attorney General of Vermont, as well as multiple members of the Vermont Legislature.

38. Madelyn's family expects to continue to advocate for the rights of opioid users, for humane treatment of opioid-addicted prisoners, and for expanded access to medications and other evidence-based therapies for opioid use disorder. They expect that the requested records, when produced, will inform this advocacy, and may also be publicly released.

CLAIMS FOR RELIEF

Count I – Violation of the Massachusetts Public Records Law

39. Plaintiffs incorporate by reference paragraphs 1 through 38 as if set forth here in their entirety.

40. Defendants have failed to produce records or otherwise respond to the Request within 10 business days as required by the Massachusetts Public Records Law ("MPRL"), G.L. c. 66, § 10(a)-(b).

41. Plaintiffs are entitled to injunctive relief requiring the City and SPD to produce the requested records forthwith. *See* G.L. c. 66, § 10A(c)-(d).

42. Plaintiffs are entitled to injunctive relief prohibiting the City and SPD from charging any fee for the production of the requested records. *See* G.L. c. 66, §§ 10(e), 10A(c)-(d).

43. Plaintiffs are entitled to an award of reasonable attorney fees and costs. *See* G.L. c. 66, § 10A(d)(2).

Count II – Declaratory Judgment

44. Plaintiffs incorporate by reference paragraphs 1 through 43 as if set forth here in their entirety.

45. There is an actual controversy between Plaintiffs and Defendants regarding the production of the requested records.

46. Pursuant to G.L. c. 231A and the MPRL, Plaintiffs are entitled to a declaration that the records they request are public records within the meaning of G. L. c. 66, § 10, that their release is required by law, and that Defendants are prohibited from charging any fee for responding to the request.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court:

1. Issue a declaratory judgment pursuant to G. L. c. 231A that the records Plaintiffs have requested are public records within the meaning of G. L. c. 66, § 10, that their release is required by law, and that Defendants may not charge a fee for responding to the Request;
2. Enter preliminary and permanent injunctions ordering Defendants to immediately disclose the requested records to Plaintiffs;
3. Expedite these proceedings pursuant to G.L. c. 66, § 10A(d)(1)(iii), and order the Defendants to show cause forthwith why the requested relief should not be granted;
4. Award Plaintiffs their attorney fees and costs; and
5. Grant such other and further declaratory and equitable relief as the Court deems just and proper.

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Respectfully submitted,



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